

[Oral Argument on Emergency Motion to Stay held October 20, 2017]

**No. 17-5236**

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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ROCHELLE GARZA, as guardian ad litem to unaccompanied minor J.D.,

Plaintiff-Appellee,

v.

ERIC HARGAN, Acting Secretary of Health and Human Services, *et al.*,

Defendants-Appellants.

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**SUPPLEMENT TO EMERGENCY PETITION  
FOR REHEARING EN BANC**

Appellee Garza respectfully files this Supplement to call the Court's attention to the fact that the temporary restraining order issued by the district court on October 18 provided, in relevant part, that the Defendants were

1. Required to transport J.D.—or allow J.D. to be transported by either her guardian or attorney ad litem—promptly and without delay to the abortion provider closest to J.D.'s shelter in order to obtain the counseling required by state law on October 19, 2017, and to obtain the abortion procedure on October 20, 2017 and/or October 21, 2017, as dictated by the abortion providers' availability and any medical requirements.

ECF 20, at 2. Because those specific dates have passed, any future relief for J.D. will require a modification of the temporary restraining order, either by this Court,

or by the district court. Should this Court undertake to modify the order, appellee very respectfully suggests that the order might be revised to provide that the

Defendants are:

1. Required to transport J.D.—or allow J.D. to be transported by either her guardian or attorney ad litem—promptly and without delay, on such dates and to such Texas abortion provider as shall be specified by J.D.’s guardian ad litem or attorney ad litem, in order to obtain the counseling required by state law and to obtain the abortion procedure, in accordance with the abortion provider’s availability and any medical requirements.

Date: October 23, 2017

Respectfully submitted,

/s/ Arthur B. Spitzer

Arthur B. Spitzer

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### **CERTIFICATE OF COMPLIANCE**

I hereby certify that the foregoing Supplement complies with the type-volume limitation of Fed. R. App. P. 35 because it has been prepared in proportionally spaced typeface using Microsoft Word in 14 point Times New Roman font and it contains 234 words on 3 pages.

/s/ Arthur B. Spitzer

Arthur B. Spitzer

### **CERTIFICATE OF SERVICE**

I hereby certify that on October 23, 2017, I served the foregoing Supplement to the Emergency Petition for Rehearing En Banc upon counsel for the appellants via this Court's CM/ECF system, and also by e-mail addressed to Benjamin Schultz and Catherine Dorsey at Benjamin.Shultz@usdoj.gov and Catherine.Dorsey@uddoj.gov, respectively.

/s/ Arthur B. Spitzer

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